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Underground Storage Tank Enforcement Discretion Directive Testing at Installation – 310 CMR 80.16(5)

June 1, 2015

310 CMR 80.16(5) states “After installation, backfilling and surfacing to grade, but prior to putting regulated substance into the tank, piping shall pass a tightness test pursuant to 310 CMR 80.32.” This requirement in the Underground Storage Tank (UST) regulations came into effect on January 2, 2015. It was drafted to require that the piping be tested when empty, after installation and backfilling, to ensure that the piping was not compromised during the installation process, and would not leak or release regulated substance.

The test referenced in 310 CMR 80.16(5) is a tightness test and pursuant to 310 CMR 80.32(2)(a) has to be performed by a certified UST system tightness tester (as defined in 80.03). MassDEP has learned that very few certified UST system tightness testers can perform tests on empty piping that meet the standard in 310 CMR 80.32. Therefore, MassDEP will not enforce the requirement in the regulation that the piping has to be tested “prior to putting regulated substance in the tank.” Pursuant to this Enforcement Discretion Directive, the piping may be tested, in accordance with 310 CMR 80.32, with regulated substance in it.

This Enforcement Discretion Directive will be in effect from June 1, 2015, to June 1, 2017, at which time MassDEP will re-evaluate the status of certified UST system tightness testers and their ability to perform a tightness test on empty piping that meets the standard in 310 CMR 80.32.

This document does not constitute “final agency action,” and is not “regulation” as that term is used in M.G.L. c.30A. It may not be relied upon to create rights, duties, obligations or defenses, implied or otherwise, enforceable by any party in any administrative proceeding with the Commonwealth. In addition, this guidance does not exempt any person from complying with the other requirements in 310 CMR 80.00 or any other applicable local, state or federal law, including but not limited to the State Fire Code at 527 CMR 1.00.